

UNITED STATES DISTRICT COURT

Northern District of California

San Francisco Division

GARY ERIC BOLTON, SR.,

No. 15-cv-4406 LB

Plaintiff,

ORDER OF DISMISSAL

v.

[Re: ECF No. 8]

CHEVRON; ANDRE TONY MILLER,

Defendants.

_____/

Gary E. Bolton, Sr., a pretrial detainee currently housed at Napa State Hospital, filed this *pro se* civil rights action under 42 U.S.C. § 1983. Mr. Bolton has consented to proceed before a magistrate judge. (ECF No. 1 at 4.)¹ Pursuant to 28 U.S.C. § 1915A, the court reviewed his complaint and determined that it was deficient in that the complaint failed to state a claim upon which relief may be granted, included an insufficient factual description of his claim, and appeared to be time-barred. (ECF No. 5.) The court dismissed the complaint, and granted Mr. Bolton leave to file an amended complaint to cure the several deficiencies. (*Id.*) Mr. Bolton then filed an amended complaint, which is now before the court for review.

¹Citations are to the Electronic Case File (“ECF”); pin cites are to the ECF-generated page numbers at the tops of the documents.

1 Mr. Bolton's amended complaint fails to cure the deficiencies identified in the order of dismissal
2 with leave to amend. The statement of claim in the amended complaint is incomprehensible. (ECF
3 No. 8 at 3.) The amended complaint does not state a claim under 42 U.S.C. § 1983 because it does
4 not allege facts suggesting that either named defendant was a state actor, and does not allege that
5 either of them violated any of Mr. Bolton's rights under the Constitution or laws of the United States.
6 *See West v. Atkins*, 487 U.S. 42, 48 (1988) (to state a claim under § 1983, plaintiff must allege state
7 action and that a right secured by the Constitution or laws of the United States was violated).
8 Further leave to amend will not be granted because it would be futile. The order of dismissal with
9 leave to amend identified the deficiencies in the original complaint and Mr. Bolton was unable to
10 cure those deficiencies in his amended complaint. This action is **DISMISSED** for failure to state a
11 claim upon which relief may be granted. The clerk shall close the file.

12 **IT IS SO ORDERED.**

13 Dated: January 15, 2015

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15 LAUREL BEELER
16 United States Magistrate Judge
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